

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FRANKENMUTH MUTUAL INS. CO.)
As subrogee of Lifestyle at Laurel)
Canyon Homebuilder, LLC)
)
PLAINTIFF)
)
V.) CIVIL ACTION
) FILE NO. _____
)
)
)
MILLWORKS SUPPLY COMPANY INC.)
)
DEFENDANT)

COMPLAINT

For its complaint against Millworks Supply Co. Inc., Frankenmuth Mutual Insurance Co., as subrogee for Lifestyle at Laurel Canyon Homebuilder LLC, states as follows:

IDENTIFICATION OF THE PARTIES

1. The plaintiff, Frankenmuth Mutual Insurance Co., is located at 1 Mutual Ave., Frankenmuth, MI 48787.
2. The insured, Lifestyle at Laurel Canyon Homebuilder LLC, is a Georgia limited liability corporation. It is located at 2849 Paces Ferry Rd SE, suite 625, Atlanta, GA 30339.
3. The defendant, Millwork Supply Co. Inc., is a Georgia corporation. It is located at 457 Short Cut Rd., Molena, GA 30258. Its agent for service of process is Clifton Chambers.

JURISDICTION AND VENUE

4. Pursuant to 28 USC Sect. 1332, Jurisdiction and venue are appropriate in the United States District Court for the Northern District of Georgia as there is complete diversity among the parties and the amount in controversy exceeds the sum of \$75,000.

FACTS

5. On or about May 18, 2015, Millwork Supply Co. Inc. entered into a contract with Lifestyle at Laurel Canyon Homebuilder, LLC to perform work at the Lifestyles at Laurel Canyon Subdivision in Canton, Georgia.

6. In particular, Millwork Supply Co. Inc. performed the following work at 525 Appalachian Woods, Canton, GA: framing the house, garage, covered porch, covered patio, and basement.

7. Shortly after the homeowners, Dennis and Linda Habrat, moved into the home in 2015, they noticed that the floors were not level.

8. Donnan Engineering Co. was hired to inspect the residence. It identified a number of issues, to include: the floor of the house is not level; and the floor slopes down in the foyer, office room, master room, and master bedroom.

9. Donnan Engineering Co. concluded the cause of the variances in the elevation level of the flooring throughout the house is related to construction deficiencies. More specifically, the floor trusses were installed unleveled.

10. As a direct result of the construction deficiencies, Frankenmuth Mutual Insurance Co. paid the Habrats the sum of One Hundred Twenty One Thousand Two Hundred Forty Seven Dollars and Seventy Three Cents (\$121,247.73).

11. At the time of the incident, Frankenmuth Mutual Insurance Co. provided coverage to Lifestyle at Laurel Canyon Homebuilder, LLC. Accordingly, it has the right to pursue recovery on behalf of Laurel Canyon Homebuilder, LLC.

SUBROGATION

12. The plaintiffs incorporate paragraph 1-11 above as if fully set out herein.

13. The plaintiff, Frankenmuth Mutual Insurance Co., was at all times relevant the insurer of Lifestyle at Laurel Canyon Homebuilder LLC.

14. Frankenmuth Mutual Insurance Co. paid to or on behalf of its insured the sum of One Hundred Twenty One Thousand Two Hundred Forty Seven Dollars and Seventy Three Cents (\$121,247.73)

15. The plaintiff, Frankenmuth Mutual Insurance Co. is entitled to reimbursement for the sums it paid to or on behalf of Lifestyle at Laurel Canyon Homebuilder LLC.

Wherefore, the plaintiff demands judgment against the defendant, for:

- a. Total reimbursement for any and all insurance payments made by Frankenmuth Insurance Co. to or on behalf of its insured;
- B. Plaintiffs' costs;
- C. Prejudgment interest;
- D. Post judgment interest; and
- E. Any and all other relief to which plaintiffs are entitled.

Respectfully submitted,

MARCUM TENNYSON, PLLC

/s/ S. Scott Marcum

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ATTORNEY FOR PLAINTIFF
FRANKENMUTH MUTUAL INS. CO.

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of July, 2023, I electronically filed the foregoing document with the clerk of court, by using the CM/ECF system.

/s/ S. Scott Marcum

S. Scott Marcum